

AMENDED IN SENATE APRIL 18, 2001  
AMENDED IN SENATE MARCH 27, 2001  
AMENDED IN SENATE MARCH 8, 2001  
AMENDED IN SENATE MARCH 1, 2001

## SENATE BILL

No. 19

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**Introduced by Senator Escutia**  
**(Principal coauthor: Senator Alpert)**  
**(Coauthors: Senators Bowen, Kuehl, Ortiz, Romero, Speier, and**  
**~~Torlakson~~ Torlakson, and Vasconcellos)**  
**(Coauthors: Assembly Members Alquist, Aroner, ~~Cedillo~~ Calderon,**  
**Chavez, Cedillo, Diaz, Firebaugh, Keeley, and ~~Strom-Martin~~ Koretz,**  
**Steinberg, Strom-Martin, and Washington)**

December 4, 2000

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An act to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of the Education Code, relating to pupil health, *and making an appropriation therefor.*

### LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Escutia. Pupil health.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils.

This bill would require every school to ~~publicize~~ *post* a summary of nutrition and physical activity laws, *and* regulations, and *the* school district policies and would require the State Department of Education ~~and school districts~~ to develop the summary *of the laws and regulations.*

(2) Existing law requires that 50% of the items, other than foods reimbursed under federal law, offered for sale each schoolday at any

schoolsite by any entity or organization during regular school hours be selected from a prescribed list of foods.

The bill would require the sale of all foods on school grounds to be approved by the school food service program.

The bill would, *with certain exceptions*, permit the sale of foods at elementary schools only ~~by the school food service program~~ *as full meals during breakfast and lunch periods* and would require items that are sold during specified breaks to meet certain standards applicable to foods sold during the schoolday in secondary schools. The bill would restrict the sale of specified beverages at *elementary and* secondary schools ~~during the schoolday~~. The bill would require all foods sold or served on the schoolsite of a secondary school during the schoolday outside of the federal school meal program to meet specified requirements ~~relating to the fat and sugar content of foods and portion sizes of foods~~. The bill would require fruits and vegetables to be offered for sale at any location on the schoolsite of a secondary school where competitive foods are sold.

(3) Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced-price meals.

This bill would require that reimbursement to be increased to 26¢ per meal.

(4) Existing law provides for various advisory committees to be formed at the school district level.

This bill would authorize a school district to convene a Child Nutrition and Physical Activity Advisory Committee that would develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee would include food service directors ~~and~~, *food service* staff, parents, pupils, *physical and health education teachers*, dietitians, doctors, nurses, and interested community ~~organizations~~ *members*. In developing the policy, the committee would be required to hold at least one public hearing. The bill would require the State Department of Education to provide a \$10,000 grant to a school district that develops and adopts a policy by ~~December 31, 2002~~ *January 1, 2003*. *The bill would appropriate \$1,000,000 in each of 2 fiscal years to the Superintendent of Public Instruction for technical support to school districts.*

(5) By imposing new requirements on school districts, the bill would impose state-mandated local programs.



(6) This bill would require the Superintendent of Public Instruction to supervise the implementation of certain provisions enacted by the bill ~~by monitoring schools every 2 years and to investigate acts of alleged, as prescribed, for noncompliance.~~ If the Superintendent of Public Instruction finds that a school district or county superintendent of schools fails to comply with those provisions, the superintendent would be required to ~~certify the~~ *provide the school district with a* noncompliance ~~to the Attorney General who notification and the school district would be required to investigate, if necessary, to document the noncompliance and seek injunctive relief to secure compliance when requested by the superintendent adopt a corrective plan.~~

(7) This bill would require the State Department of Education, with advice from the Child Nutrition Advisory Council, to design and implement a financial incentive grant program to help and encourage schools to implement their policies and meet specified goals.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Childhood obesity has reached epidemic levels in
- 3 California and throughout the nation. Recent studies have shown
- 4 that more than 30 percent of California youth are overweight and
- 5 that adolescent obesity has doubled over the past two decades. In
- 6 some California school districts, as many as 50 percent of pupils
- 7 are overweight.
- 8 (b) Overweight and obese children are at higher risk for
- 9 long-term health problems, including cardiovascular disease,



1 stroke, hypertension, high blood pressure, gallbladder disease,  
2 Type 2 diabetes, asthma, and certain cancers. The lives of  
3 overweight youth are often also affected by discrimination,  
4 psychological stress, poor body image, and low self-esteem.  
5 Eighty percent of obese adolescents remain obese as adults.

6 (c) Two-thirds of all deaths in California result from four  
7 chronic diseases: heart disease, cancer, stroke, and diabetes.  
8 Health experts agree that one of the most effective ways to prevent  
9 these chronic diseases is to establish policies and programs that  
10 encourage children and adolescents to develop healthy eating and  
11 exercise habits they can maintain throughout their lives.

12 (d) A child who is physically healthy is more likely to be  
13 academically motivated, alert, and successful. Results from the  
14 1999 Physical Fitness test showed that only 20 percent of pupils  
15 in grades 5, 7, and 9 met the requirement to be considered fit.

16 (e) Healthy eating also plays an important role in learning and  
17 cognitive development. Poor diet has been found to adversely  
18 influence the ability to learn and to decrease motivation and  
19 attentiveness.

20 (f) The school environment plays an influential role in the  
21 foods children eat nearly every day. While the United States  
22 Department of Agriculture (USDA) regulates the nutrient content  
23 of meals sold under its reimbursable meal program, similar  
24 standards do not exist for “competitive foods” that are sold  
25 outside the USDA meal programs. Competitive foods are often  
26 very high in added sugar, sodium, and fat.

27 (g) The state’s support of school food services is inadequate.  
28 The State Department of Education monitors schools only once  
29 every five years and lacks the resources to provide any technical  
30 assistance. The last time the state increased the state meal subsidy,  
31 beyond a cost-of-living adjustment, was in 1981, leaving  
32 California ranked 41st in the nation in school meal reimbursement  
33 rates. In order to generate revenue, many schools sell or allow  
34 vendors to sell competitive foods on campus.

35 (h) In a survey conducted in 2000, 95 percent of responding  
36 California school districts reported that they sell fast foods, the  
37 most common of which are sodas, pizza, cookies, chips, and  
38 burritos, contributing to the fact that carbonated drinks are the  
39 single biggest source of refined sugars in the American diet,  
40 approximately 70 percent of children in the United States who are



2 to 11 years of age exceeded current dietary recommendations for intakes of total and saturated fat, and only 21 percent of California children meet the goal of eating five servings of fruits and vegetables per day.

SEC. 2. Article 2.5 (commencing with Section 49430) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 2.5. The Pupil Nutrition, Health, and Achievement Act of 2001

49430. *As used in this article, the following terms have the following meanings:*

(a) “Elementary school” means a public school that maintains any grade below grade 6.

(b) “Secondary school” means any public school that maintains only any of grades 6 through 12, inclusive.

(c) “Full meal” means any combination of food items that meet a U.S.D.A.-approved meal pattern.

49430.5. (a) The reimbursement a school receives for free and reduced-price meals shall be increased to twenty-six cents (\$0.26).

(b) A school shall receive a reimbursement of thirteen cents (\$0.13) for meals sold at full price.

(c) To qualify for the increased reimbursement for free and reduced-price meals and for the reimbursement for meals sold at full price, a school shall follow the United States Department of Agriculture’s Enhanced Food Based Meal Pattern, the United States Department of Agriculture’s Nutrient Standard Meal Planning, or California’s SHAPE Menu Patterns and shall comply with Section 49431. Patterns.

(d) *The reimbursement rates set forth in this section shall be adjusted annually for increases in cost-of-living in the same manner as set forth in subdivision (a) of Section 42238.15.*

49431. (a) The sale of all foods on school grounds shall be approved by the school food service program director or the person or entity responsible for serving meals at the schoolsite.

~~(b) At elementary schools, foods may be sold during the schoolday only by the school food service program. Individual~~

(b) (1) *At elementary schools, the only food that may be sold during breakfast and lunch periods is food that is sold as a full*

1 meal. This subdivision does not prohibit the sale of fruits,  
2 vegetables, or beverages as individual items.

3 (2) Individual food items sold during morning or afternoon  
4 breaks at elementary schools shall meet the standards for foods  
5 sold at secondary high schools, as set forth in subdivision (c).

6 ~~(e) (1) The following beverages shall not be sold at secondary~~  
7 ~~schools during the schoolday:~~

8 ~~(A) Soft drinks, sports drinks, punches, and iced teas.~~

9 ~~(B) Fruit-based drinks that contain less than 50 percent real~~  
10 ~~fruit juice or that contain additional sweeteners.~~

11 ~~(C) Drinks containing caffeine, excluding chocolate milk.~~

12 ~~(2) The~~

13 (3) Regardless of the time of day, water, milk, and 100 percent  
14 fruit juices, are the only beverages that may be sold at an  
15 elementary school.

16 (c) (1) Only the following beverages may be sold at secondary  
17 schools:

18 (A) Fruit-based drinks that contain at least 50 percent fruit juice  
19 and that do not contain additional sweeteners.

20 (B) Water.

21 (C) Low-fat or nonfat milk, including, but not limited to,  
22 chocolate milk, soy milk, rice milk, and other similar nondairy  
23 milk.

24 (D) Other beverages that contain no more than 25 grams of  
25 sweetener and no more than 25 milligrams of caffeine per  
26 12-ounce serving.

27 (2) No beverage permitted to be sold pursuant to this  
28 subdivision may be carbonated.

29 (3) All snacks, sweets, or side dishes sold or served on the  
30 schoolsite of a secondary school outside of the federal school meal  
31 program during the schoolday shall meet all of the following  
32 standards:

33 (A) Have 30 35 percent or less of its total calories from fat. This  
34 subparagraph does not prohibit the sale of nuts and seeds.

35 (B) Have 10 percent or less of its total calories from saturated  
36 fat.

37 (C) Have 35 percent or less of its total weight composed of  
38 sugar. This subparagraph does not apply to prohibit the sale of  
39 fruits or vegetables.

40 (D) Be limited to the following maximum portion sizes:

(i) One and one-quarter ounces for chips, crackers, popcorn, cereal, ~~trail mix, nuts, seeds, dried fruit,~~ or jerky.

(ii) Two *and one-quarter* ounces for cookies or cereal bars.

(iii) Three ounces for bakery items, including, but not limited to, ~~pastries, muffins, and donuts.~~ *to, pastries and muffins.*

(iv) Three *and one-half* ounces for frozen desserts, including, but not limited to, ice cream *or frozen yogurt.*

(v) Eight ounces for nonfrozen yogurt.

(vi) Twelve ounces for beverages, ~~excluding water.~~ *The beverage maximum portion limitation set forth in this clause does not apply to water or milk.*

(4) Entree items and side dishes, including, but not limited to, french fries and onion rings, shall be no larger than the portions of those foods served as part of the federal school meal program.

(5) Fruits and vegetables shall be offered for sale at any location on the schoolsite of a secondary school where competitive foods are sold.

*(d) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, this section shall not be waived pursuant to that article.*

~~49432. Every school shall publicize a summary of nutrition and physical activity laws, regulations, and school district policies by posting the summary in public view within all school cafeterias and distributing it to parents annually. The State Department of Education and school districts shall develop the summary. The department shall develop the portion on state law and regulations. Each school district shall develop the part of the summary on local policies.~~

*49432. By January 1, 2004, every school shall post a summary of nutrition and physical activity laws and regulations, and shall post the school district's nutrition and physical activity policies, in public view within all school cafeterias or other central eating areas. The State Department of Education shall develop the summary of state law and regulations.*

49433. (a) A school district may convene a Child Nutrition and Physical Activity Advisory Committee that shall develop and recommend to the governing board of the school for its adoption a school district ~~policy~~ *policies* on nutrition and physical activity. The committee shall include, *but need not be limited to*, food service directors ~~and~~, *food service staff*, staff, parents, pupils,



- 1 *physical and health education teachers, dietitians, health care*  
2 *professionals, and interested community organizations members.*  
3 In developing the policy, the committee shall hold at least one  
4 public hearing.
- 5 ~~(b) The policy shall address the following issues and goals:~~  
6 ~~(1) Ensuring that no pupil is hungry and that a healthy and~~  
7 ~~nutritious breakfast, lunch, and after school snack is available to~~  
8 ~~every pupil at every school so that pupils are prepared to learn to~~  
9 ~~their fullest potential.~~  
10 ~~(2) Improving nutritional standards, food quality, and choices.~~  
11 ~~(3) Increasing availability of fresh fruits and vegetables and~~  
12 ~~other foods high in minerals, calcium, zinc, magnesium, Vitamins~~  
13 ~~A, C, and E, and fiber, and low in sodium, fat, sugar, cholesterol,~~  
14 ~~and transfatty acids in all school related food sites.~~  
15 ~~(4) Ensuring that the food served shall be fresh, to the~~  
16 ~~maximum extent possible, via partnerships with farms, school~~  
17 ~~gardens, and local farmers markets.~~  
18 ~~(5) Encouraging eligible pupils to participate in the school~~  
19 ~~lunch program by removing barriers to the program.~~  
20 *(b) The policies shall address issues and goals, including, but*  
21 *not limited to, all of the following:*  
22 *(1) Ensuring that no pupil is hungry.*  
23 *(2) Improving nutritional standards.*  
24 *(3) Increasing the availability of fresh fruits and vegetables.*  
25 *(4) Ensuring, to the extent possible, that the food served is*  
26 *fresh.*  
27 *(5) Encouraging eligible pupils to participate in the school*  
28 *lunch program.*  
29 *(6) Integrating nutrition and physical activity into the overall*  
30 *curriculum.*  
31 *(7) Ensuring regular professional development for food*  
32 *services staff.*  
33 *(8) Ensuring pupils a minimum of 30 minutes to eat lunch and*  
34 *20 minutes to eat breakfast when provided.*  
35 *(9) Ensuring pupils engage in healthful levels of vigorous*  
36 *physical activity.*  
37 *(10) Ensuring pupils engage in meaningful, effective receive*  
38 *nutrition education.*  
39 *(11) Improving the quality of physical education curricula and*  
40 *increasing training of physical education teachers.*



(12) Enforcing existing physical education requirements.

(13) Altering the economic structures in place to encourage healthy eating by pupils and reduce dependency on generating profits for the school from the sale of unhealthy foods.

~~(14) Reducing marketing and advertising of commercial brand food products on school campuses.~~

~~(15) Developing a financing plan to implement the policy relying on state and federal funds, private sector partnerships, and other resources.~~

~~(e) A school district that develops and adopts a policy by December 31, 2002, shall receive a ten thousand dollar (\$10,000) grant from the State Department of Education, subject to an appropriation being made for that purpose.~~

*(14) Developing a financing plan to implement the policies.*

*(c) A school district that develops and adopts policies pursuant to this section by January 1, 2003, shall receive a grant from the State Department of Education in the amount of ten thousand dollars (\$10,000) to offset the costs of developing the policies.*

*(d) The sum of one million dollars (\$1,000,000) is hereby appropriated from the General Fund to the State Department of Education, in each of the fiscal years 2001–02 and 2002–03, for the purpose of providing technical support to school districts to assist in implementing this section.*

49434. *(a) The Superintendent of Public Instruction shall supervise the implementation of this article and shall investigate acts of alleged noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools has failed to comply with the provisions of this article, the Superintendent of Public Instruction shall certify this noncompliance to the Attorney General. The Attorney General shall investigate, if necessary, to document the noncompliance. The Attorney General shall seek injunctive relief to secure compliance with this article when requested by the Superintendent of Public Instruction. The Superintendent of Public Instruction shall ensure the implementation and enforcement of all of the provisions in this article by monitoring schools every two years. randomly select not less than 10 percent of the school districts of the state to report compliance with this article as set forth in subdivision (b). The group selected shall be sufficient to provide*

1 *a statistically random and accurate sampling of the state as a*  
2 *whole.*

3 *(b) Each school district selected pursuant to subdivision (a)*  
4 *shall report to the Superintendent of Public Instruction in the*  
5 *coordinated compliance review regarding the extent to which it has*  
6 *complied with this article.*

7 *(c) For any school district that the Superintendent of Public*  
8 *Instruction finds is not in compliance with the mandatory*  
9 *provisions of this article, the Superintendent of Public Instruction*  
10 *shall issue a notice of noncompliance. The noncomplying school*  
11 *district shall adopt, and provide to the Superintendent of Public*  
12 *Instruction, a corrective plan. The corrective plan shall set forth*  
13 *the actions to be taken by the school district in order to ensure that*  
14 *the school district will be in full compliance within one year from*  
15 *the issuance of the noncompliance notification.*

16 49435. The State Department of Education, with advice from  
17 the Child Nutrition Advisory Council, shall design and implement  
18 a financial incentive grant program to help and encourage schools  
19 to implement their policies and meet the goals described in  
20 subdivision (b) of Section 49433.

21 SEC. 3. Notwithstanding Section 17610 of the Government  
22 Code, if the Commission on State Mandates determines that this  
23 act contains costs mandated by the state, reimbursement to local  
24 agencies and school districts for those costs shall be made pursuant  
25 to Part 7 (commencing with Section 17500) of Division 4 of Title  
26 2 of the Government Code. If the statewide cost of the claim for  
27 reimbursement does not exceed one million dollars (\$1,000,000),  
28 reimbursement shall be made from the State Mandates Claims  
29 Fund.

